

NOTE: Government Code section 11340.85 requires the Board to post all notices, initial statement of reasons and texts of rules noticed to the public until 15 days after the proposed regulations are filed with the Secretary of State by the Office of Administrative Law.

CALIFORNIA HORSE RACING BOARD
TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS

NOTICE OF PROPOSAL TO AMEND
RULE 1845, AUTHORIZED BLEEDER MEDICATION

The California Horse Racing Board (Board/CHRB) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rule 1845, Authorized Bleeder Medication, to enact the Racing Medication and Testing Consortium (RMTC) recommendations for third party administration of furosemide. In 2011 the RMTC formed a race-day medication task force, which concluded that to preserve race-day furosemide and eliminate concerns regarding the efficacy of furosemide to control exercise-induced pulmonary hemorrhage (EIPH), a national uniform medication policy must include third-party administration of furosemide only. In 2013 the Racing Commissioners International (RCI) incorporated the RMTC recommendations in a Model Rule. The RCI Model Rule requires that furosemide be the only medication authorized for administration on race day, and limits furosemide administration to no less than four hours prior to post time for the race in which the horse is entered. Furosemide may only be administered by third-party veterinarians or veterinary technicians who are prohibited from working as private veterinarians or technicians on the racetrack or with participating licensees. The proposed amendment to Rule 1845 will bring the Board's rules in line with the national movement to address the issue of race day medication. The Board proposes to modify the text of Rule 1845 to provide that the only authorized medication for the control of EIPH shall be furosemide. The proposed amendment provides the steps required to register a horse on the authorized bleeder medication list. Once registered, the proposed amendment states when, how and in what dosage furosemide shall be administered to the horse. The amendment to Rule 1845 requires that furosemide may only be administered by a veterinarian designated by the Official Veterinarian, or a California registered veterinary technician under the direct supervision of the veterinarian designated by the Official Veterinarian. In an emergency, the Official Veterinarian may designate himself or herself to administer furosemide. The details of the emergency shall immediately be reported to the stewards. Prior to the administration of furosemide, either the veterinarian designated by the Official Veterinarian, or the Official Veterinarian or Racing Veterinarian, must consult with the trainer, owner or the veterinarian designated by the owner or trainer, regarding the condition of the horse, and the veterinarian designated by the Official Veterinarian, or the Official Veterinarian or the Racing Veterinarian, must examine the horse sufficient to establish a veterinary-client-patient-relationship within the meaning of California Code of Regulations (CCR), Title 16, section 2032.1. The proposed amendment to Rule 1845

provides that the owner, trainer, or a designated licensed employee of the trainer, shall be present to observe the furosemide administration; what actions to take in the event of an adverse reaction or other emergency related to the administration of furosemide; and that the syringe used to administer furosemide shall be retained by the Board until all testing of the horse is completed. The amendment to Rule 1845 sets the specific gravity of the post-race urine sample, and states that quantitation of furosemide in serum or plasma shall be performed if the urine sample is not available, or the specific gravity of the urine sample is below a specified level. The proposed amendment to Rule 1845 requires that the owner(s) of a registered horse shall pay all costs associated with the administration of furosemide; consent to the procedures in the regulation; and agree that the pre-race examination conducted under the direction of the Official Veterinarian shall constitute a veterinary-client-patient relationship within the meaning of the CCR, Title 16, section 2032.1. In addition, the proposed amendment to Rule 1845 modifies the CHRB form 194 (New 08/04) Authorized Bleeder Medication Request by changing the title of the form to: "Authorized Bleeder Medication and Medical History Request." A new section has been added to the Form 194 to allow the veterinarian designated by the horse owner(s) or trainer to provide the medical history relevant to the administration of authorized bleeder medication for the horse listed on the form.

The forms Bleeder Treatment Report CHRB-36 (New 08/04) and Authorized Bleeder Medication and Medical Records Request CHRB-194 (Rev. 06/15), are incorporated by reference into Rule 1845, as it would be cumbersome, unduly expensive or otherwise impractical to publish the documents in the CCR.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m. Thursday, August 20, 2015**, or as soon after that as business before the Board will permit, at the **Del Mar Simulcast Facility, 2260 Jimmy Durante Boulevard, Del Mar, California**. At the hearing, any person may present statement or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on August 10, 2015**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

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Sacramento, CA 95825
Telephone (916) 263-6026
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AUTHORITY AND REFERENCE:

Authority cited: Sections 19440 and 19562, Business and Professions Code.

Reference: Sections 19580 and 19582, Business and Professions Code.

Business and Professions Code sections 19440 and 19562 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19580 and 19581, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 states the Board has all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 provides that the Board may prescribe rules, regulations, and conditions under which all horse races with wagering on their results shall be conducted in California. Business and Professions Code section 19580 requires the Board to adopt regulations to establish policies, guidelines, and penalties relating to equine medication to preserve and enhance the integrity of horse racing in California. Business and Professions Code section 19582 states violations of Section 19581, as determined by the Board are punishable as set forth in regulations adopted by the Board. The Board may classify violations of section 19581 based on each class of prohibited drug substances, prior violations within the previous three years, and prior violations within the violator's lifetime. The Board may provide for the suspension of a license for not more than three years, except as provided in subdivision (b), or a monetary penalty of not more than one hundred thousand dollars, or both, and disqualification from purses, for a violation of Section 19581. The actual amount of the monetary penalty imposed pursuant to this paragraph shall be determined only after due consideration has been given to all the facts, circumstances, acts, and intent of the licensee, and shall not be solely based on the trainer-insurer rule, as established in Section 1843 and 1887 of Title 4 of the CCR. The punishment for second and subsequent violations of section 19581 shall be greater than the punishment for a first violation of section 19581 with respect to each class of prohibited drug substances, unless the administrative law judge, in findings of fact and conclusions of law filed with the Board, concludes that a deviation from this general rule is justified. A third violation of section 19581 during the lifetime of the licensee, determined by the Board to be at a class I or class II level, may result in the permanent revocation of the person's license. The administrative law judge shall, after consideration of the circumstances surrounding a violation specified in paragraph (1), file a decision with the Board that includes findings of fact and conclusions of law. Any person whose license is suspended or revoked pursuant to this section shall not be entitled to receive any material benefit or remuneration in any capacity or from any business activity permitted or allowed by the license during any period of its suspension or revocation. The penalties provided by this section are in addition to any other civil, criminal, and administrative penalties or sanctions provided by law, and do not supplant, but are cumulative to, other penalties or sanctions.

Furosemide is a diuretic administered to horses to treat EIPH, which is a condition wherein pulmonary bleeding occurs when capillaries in horses' lungs burst due to the exertion of severe

exercise, or from racing. EIPH and the associated side effects cause poor racing performance. EIPH cumulatively damages lungs, and as damage accumulates the incidence and severity of bleeding increases. Untreated EIPH places both horse and rider at risk of injury. In 2011 a committee of the RMTC studying the administration of furosemide and adjunct bleeder medications presented its recommendations to the RMTC board, which resulted in the development of a Model Rule for RCI consideration. In 2013 the RCI incorporated the RMTC recommendations in a Model Rule, which requires that furosemide be the only medication authorized for administration on race day, and limits furosemide administration to no less than four hours prior to post time for the race in which the horse is entered. The RCI Model Rule also requires that furosemide administration be performed only by third-party veterinarians or veterinary technicians who are prohibited from working as private veterinarians or technicians at the racetrack or with participating licensees. As of January 2014, thirteen states had adopted regulations requiring third-party administration of furosemide: Colorado, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, North Dakota, Virginia and West Virginia. The proposed amendment to Rule 1845, Authorized Bleeder Medication, will bring the Board's regulations in line with the RMTC/RCI recommendations regarding the third-party administration of furosemide.

The proposed amendment to Rule 1845 will modify the opening paragraph of the regulation to state that furosemide shall be the only authorized bleeder medication for the control of EIPH. EIPH occurs in horses, and is characterized by bleeding into the lungs or out the nose during exercise. It is believed horses experience EIPH because during exercise they have unusually high blood pressure in the vessels that lead from the heart to the lungs and this high pressure causes the walls of the vessels to break and release blood into the airways. The blood can impair breathing and lead to exercise intolerance. Some bleeding occurs in most horses that engage in strenuous exercise, but it becomes a problem when there is enough blood to prevent the horse from performing. Furosemide is a diuretic that has been shown to be effective in reducing EIPH. Theoretically, if horses are given furosemide, the drug draws water away from the lungs and keeps the blood pressure from getting too high, preventing the lesions in the vessels and the blood from getting into the lungs. In 2011, the RMTC, the National Thoroughbred Racing Association, and the American Association of Equine Practitioners formed industry working groups to develop model rule recommendations, including recommendations governing the regulatory administration of furosemide. The consensus reached by the RMTC committee became the basis for an RCI Model Rule which allows only furosemide for the control of EIPH on race day. Under the RMTC recommendations, and the RCI Model Rule, adjunct bleeder medications are eliminated. The proposed amendment to Rule 1845 will bring California in line with the RCI Model Rule by designating furosemide as the only authorized bleeder medication for the control of EIPH. The opening paragraph of Rule 1845 has also been modified to state that furosemide shall only be administered by a single intravenous injection, in a dosage of not less than 150 milligrams and not more than 500 milligrams, on the grounds of the racetrack where the horse will race, and no later than four hours prior to race time. These provisions are not new to the regulation, but were moved to the opening paragraph from the previous subsection 1845(e); they are also consistent with the RCI Model Rule.

The amended subsections 1845(a) through (a)(2) state how a horse is registered on the authorized bleeder medication list. Subsection (a)(1) provides that the trainer and a veterinarian designated

by the owner must determine furosemide is medically necessary to control EIPH and is not otherwise contraindicated for the horse. Subsection 1845(a) currently provides that either the trainer or a veterinarian may determine if it is in the horse's "best interest" to run on bleeder medication. The proposed amendment provides a higher standard by requiring that the trainer and a veterinarian designated by the owner must determine furosemide is medically necessary to control EIPH and is not otherwise contraindicated for the horse. This is necessary, because in addition to the control of EIPH, furosemide is also associated with improved performance. Under the current rule, a trainer's determination that running on furosemide is in the best interest of a horse may not be based on medical necessity. The proposed amendment requires that the trainer and the veterinarian designated by the owner must be in agreement that furosemide is a medical necessity to control EIPH, and is not otherwise contraindicated for the horse. This will mean that the horse has actually been observed bleeding, and/or that an endoscopic examination has been performed. It will further require that the trainer and the veterinarian designated by the owner determine furosemide will not be harmful to the horse, and its benefits outweigh any risk. These provisions are necessary to prevent a horse from being placed on the bleeder medication list without a medical determination that it is actually exhibiting EIPH.

Currently, under Rule 1845, the CHRB form 194, Authorized Bleeder Medication Request (New 08/04) (CHRB 194), which is incorporated by reference in Rule 1845, is used to notify the Official Veterinarian of the trainer's or veterinarian's decision to place the horse on the bleeder medication list. Subsection (a)(2) has been amended to provide that prior to entry for race, the Official Veterinarian must approve the CHRB form 194. The requirement for the Official Veterinarian's approval will mean that he or she must agree with the medical determination made by the trainer of the horse and the veterinarian designated by the owner before the horse may be placed on the bleeder list. The title of the CHRB form 194 has been changed to read "Authorized Bleeder Medication and Medical History Request." This has been done to reflect the requirement that the horse's medical history, relevant to the administration of authorized bleeder medication, must be provided. This is in accordance with section 2032.1 of Title 16, of the CCR dealing with Veterinarian-Client-Patient Relationships. This regulation requires veterinarians who perform any act requiring a license upon any animal to prepare a legible, written record concerning the animal which shall contain a history or pertinent information as it pertains to each animal.

The existing subsections 1845(b) and 1845(c) have been renumbered as 1845(g)(1) and (g)(2). This was necessary for purposes of consistency and clarity.

The existing subsection 1845(d) has been renumbered as subsections 1845(b) through (b)(2). Subsection 1845(b) and (b)(1) state that once registered, any horse that shall be administered furosemide shall arrive on the grounds of the racetrack where it shall race no later than five hours prior to post time. A horse registered on the authorized bleeder medication list must arrive on the grounds of the racetrack five hours prior to post time, as Rule 1845 requires that furosemide be administered no later than four hours prior to the race in which the horse is entered. Subsection 1845(b)(2) states the horse shall be assigned to a pre-race security stall. The horse shall remain in the security stall until it is taken to the receiving barn or the paddock to be saddled or harnessed for the race. While in the security stall, the horse shall be under the constant care, custody and view of the trainer or a licensed person assigned by the trainer. The

trainer shall be responsible for the condition of the horse while it remains in the security stall. The Official Veterinarian may allow the horse to leave the stall to engage in track warm-up heats prior to a race. These provisions are not new, as they exist in the current Rule 1845(d). Pre-race security stalls are a component of the pre-race security measures that help to minimize or eliminate the administration of illegal drugs to racehorses. In practice, one or more of a trainer's assigned stalls are designated with "In-Today" stall signs. The signs identify a horse entered on the day's race card. Board Rule 1887, Trainer to Insure condition of Horse, provides that the trainer is the absolute insurer of and responsible for the condition of the horses entered in a race. Subsection 1845(b)(2) reiterates this concept by requiring that the horse in the pre-race security stall must be under the care, custody and constant view of the trainer, or of a licensed person assigned by the trainer. These measures are necessary to ensure the integrity of horseracing and the protection of the public. Racehorses are athletes, and must consistently train to be at their competitive peak. Trainers formulate specific training schedules that ensure each horse will perform at its best on race day. Under-training may lead to cramps, strains and injuries during the race. Subsection 1845(b)(2) provides the trainer with the ability to engage his or her horse in on-track warm-ups prior to a race with the permission of the Official Veterinarian.

Before the veterinarian designated by the Official Veterinarian may administer furosemide to the horse, a veterinary-client-patient relationship must be established within the meaning of CCR, Title 16, section 2032.1. A new subsection 1845(c)(1) provides that such a relationship may be established if the owner, trainer or the veterinarian designated by the owner or trainer has consulted with the veterinarian designated by the Official Veterinarian regarding the condition of the horse. The veterinarian designated by the Official Veterinarian must also examine the horse. Alternatively, under a new subsection 1845(c)(2), the trainer, owner or veterinarian designated by the owner or trainer may consult with the Official Veterinarian or Racing Veterinarian, and the veterinarian designated by the Official Veterinarian examines the horse. Under subsection 1845(c)(2) the consulting Official Veterinarian or Racing Veterinarian must also directly supervise the veterinarian designated by the Official Veterinarian or registered veterinary technician who administers the furosemide. The direct supervision is necessary because the veterinarian designated by the Official Veterinarian would not have consulted with the owner, the trainer or the veterinarian designated by the owner or trainer. The provisions of subsections 1845(c)(1) through (c)(2), which are meant to establish a veterinary-client-patient relationship, were developed in conjunction with the California Veterinary Medical Board (CVMB) in response to the CVMB's concerns that third party administration of furosemide would violate the veterinary-client-patient relationship.

New subsections 1845(d) through (d)(3) describe how the administration of furosemide shall occur. Subsection (d)(1) states that only a veterinarian designated by the Official Veterinarian, or a California registered veterinary technician under the direct supervision of the veterinarian designated by the Official Veterinarian may administer furosemide. The Official Veterinarian may designate himself or herself in an emergency, the details of which shall be immediately reported to the stewards. Subsection (d)(1)(A) provides that the veterinarian designated by the Official Veterinarian or California registered veterinary technician who administers furosemide shall not have a current business relationship with participating licensees within 30 days of the date he or she is designated to administer furosemide, or have had a veterinarian-client-patient relationship within 30 days of the date he or she is designated to administer furosemide. These

provisions are necessary to meet the goals of “third-party” administration of furosemide, which are to get private veterinarians out of the stall on race day, and to ensure that only veterinarians (or California registered veterinary technicians) under the control of the Board administer furosemide. To make certain the veterinarians designated by the Official Veterinarian and/or the California registered veterinary technicians do not have an interest in the business of licensees, they are prohibited from having worked as private veterinarians or technicians on the racetrack, or with participating licensees, within 30 days of the date they are designated to administer furosemide. Some necessary flexibility is provided in that the Official Veterinarian may administer furosemide in an emergency. The Official Veterinarian is a licensee of the Board and is employed by the racing association. This means he or she does not have a business relationship with participating licensees. In addition, Board Rule 1560, Duties of the Official Veterinarian, currently allows the Official Veterinarian, in an emergency, to directly treat or prescribe for any horse registered to race at any recognized meeting. Rule 1560 also requires that the stewards be immediately informed if the Official Veterinarian directly treats or prescribes for any horse. Limiting the administration of furosemide to the veterinarian designated by the Official Veterinarian, the California registered veterinary technician, or in an emergency the Official Veterinarian, is necessary to assure competitors and the wagering public alike that the only drug or medication horses will receive on race day is furosemide, and the only veterinarian/technician treating the horse is a third party veterinarian/technician. Subsection 1845(d)(1)(B) provides that the person who administers furosemide shall, not later than two hours prior to post time of the race for which the horse is entered, notify the Official Veterinarian of the treatment of the horse by using CHRB Form-36 (New 08/04) Bleeder Treatment Report, which is incorporated by reference. These provisions have been moved from the current subsection 1845(e) to the new 1845(d)(1)(B). A new subsection (d)(2) requires that the owner, trainer or a designated licensed employee of the trainer shall be present and observe the furosemide administration. This provision is necessary so that there will be no question that the furosemide was properly administered by the veterinarian designated by the Official Veterinarian or the California registered veterinary technician. This is also in keeping with subsection 1845(b)(2) which states that the horse shall be under the constant care, custody and view of the trainer or a licensed person assigned by the trainer. The trainer shall be responsible for the condition of the horse while it remains in the security stall. Subsection 1845(d)(3) provides that the horse authorized to be administered furosemide shall receive 250 mg of furosemide intravenously unless an alternative dose between 150 mg and 500 mg has been determined after consultation between the trainer, owner, or veterinarian designated by the owner or trainer and the veterinarian designated by the Official Veterinarian. The current Rule 1845 allows for furosemide administration between 150 mg and 500 mg. The proposed amendment to Rule 1845 sets a standard furosemide dose of 250 mg. This is a nationally recognized default dose. However, not every horse will require a standard dose of furosemide. Therefore, to provide the parties with the flexibility to act in the best interest of the horse, subsection 1845(d)(3) allows for the administration of between 150 mg and 500 mg. The range of 150 mg to 500 mg is consistent with the RCI Model Rule recommendations for administration of furosemide.

A new subsection 1845(e) requires that in the event of an adverse reaction or other emergency related to the administration of furosemide, the veterinarian or California registered veterinary technician who administered the furosemide shall attend the horse until the arrival of the veterinarian designated by the trainer or owner. This provision is necessary to ensure the horse

is in the care of a veterinarian or medical technician at all times, and will allow the veterinarian designated by the owner or trainer to confer with the party who administered furosemide regarding the horse's reaction to the furosemide administration.

The current subsection 1845(e) provides that a representative of the Board may request that the veterinarian administering the bleeder medication surrender the syringe used in the administration of furosemide for possible testing. A new subsection 1845(f) requires that the syringe used to administer furosemide shall be provided to, and retained by the Board until all testing of the horse is completed. This is necessary to ensure that each syringe used to administer furosemide is in the custody of the Board and available for testing, as needed. If there is a positive test finding, the Board may order, or the owner or trainer may request that the syringe be analyzed for prohibited substances. This is in keeping with Board Rule 1859.25, Split Sample Testing, which provides the owner or trainer the opportunity to request, and pay a fee to have the split sample of the Board's official test sample tested by an independent Board-approved laboratory if the Board's official test sample is found to contain a prohibited drug substance.

The current subsections 1845(b) and (c) have been renumbered for purposes of clarity and consistency and appear in the amended text as subsections 1845(g) through (g)(2). These subsections give the required specific gravity of post-race urine samples, which shall not be below 1.010. (Specific gravity is a measurement of how concentrated the urine is; the density of the fluid.) They also provide that if the urine sample is not available, or if it is determined to be below 1.010, quantitation of furosemide in serum or plasma shall be performed. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma. These levels are the same as those in the current 1845 text. These levels are also consistent with the requirements of the RCI Model Rule recommendations.

Subsection 1845(f) of the current Rule 1845 has been renumbered as subsection 1845(h) of the amended text. The subsection remains essentially unchanged from the current version of Rule 1845. Any changes that have been made to subsection 1845(h) are for the purposes of clarity and consistency. Subsection 1845(h) states how a horse may be removed from the official authorized bleeder medication list, and the periods of time the horse must remain off the list before it can be re-registered on the list.

Subsection 1845(g) of the current Rule 1845 has been renumbered for purposes of clarity and consistency as subsection 1845(i) of the revised text. The subsection provides the period of time a horse will be ineligible to race if the official veterinarian observes it bleeding externally from one or both nostrils during or after a race or workout, and determines such bleeding is a direct result of EIPH. These periods of time remain unchanged; however, an exemption to these periods of ineligibility for horses voluntarily administered authorized bleeder medication without an external bleeding incident has been stricken. Under the proposed amendment it must be determined that furosemide is medically necessary for the horse; this would preclude the "voluntary" administration of the medication without a bleeding incident.

A new subsection 1845(j)(1) provides that the owner of the horse shall pay all costs associated with the administration of furosemide. This is consistent with current practice. Owners currently pay all veterinary medical costs associated with the care and upkeep of their horses.

A new subsection 1845(j)(2) provides that the owner shall consent to the procedures in Rule 1845, and shall agree that the pre-race examination conducted by the Official Veterinarian constitutes a veterinary-client-patient relationship within the meaning of Title 16, section 2032.1, of the CCR. Although Rule 1846, Racing Soundness Examination, provides that the horse may be examined as late as two hours before post time, most racing soundness examinations occur in early morning, well before the first post time. (The first post time in a thoroughbred race meeting is typically between 12:30 p.m. and 1:30 p.m.) The examinations are conducted by the Official Veterinarian or the Racing Veterinarian. This provision will ensure a veterinary-client-patient relationship has been established should an emergency require that the Official Veterinarian designate himself or herself to administer furosemide.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Board Rule 1845 will enact the RMT/RCI recommendations for third party administration of furosemide. The Board proposes to modify the text of Rule 1845 to provide that the only authorized medication for the control of EIPH shall be furosemide. The proposed amendment provides the steps required to register a horse on the authorized bleeder medication list. Once registered, the proposed amendment states when, how and in what dosage furosemide shall be administered to the horse. The amendment to Rule 1845 requires that furosemide may only be administered by a veterinarian designated by the Official Veterinarian, or a California registered veterinary technician under the direct supervision of the veterinarian designated by the Official Veterinarian. In an emergency, the Official Veterinarian may designate himself or herself to administer furosemide. The details of the emergency shall immediately be reported to the stewards. Prior to the administration of furosemide, either the veterinarian designated by the Official Veterinarian, or the Official Veterinarian or Racing Veterinarian, must consult with the trainer, owner or the veterinarian designated by the owner or trainer, regarding the condition of the horse, and the veterinarian designated by the Official Veterinarian, or the Official Veterinarian or the Racing Veterinarian, must examine the horse sufficient to establish a veterinary-client-patient-relationship within the meaning of CCR, Title 16, section 2032.1. The proposed amendment to Rule 1845 provides that the owner, trainer, or a designated licensed employee of the trainer, shall be present to observe the furosemide administration; what actions to take in the event of an adverse reaction or other emergency related to the administration of furosemide; and that the syringe used to administer furosemide shall be retained by the Board until all testing of the horse is completed. The amendment to Rule 1845 sets the specific gravity of the post-race urine sample, and states that quantitation of furosemide in serum or plasma shall be performed if the urine sample is not available, or the specific gravity of the urine sample is below a specified level. The proposed amendment to Rule 1845 requires that the owner(s) of a registered horse shall pay all costs associated with the administration of furosemide; consent to the procedures in the regulation; and agree that the pre-race examination conducted under the direction of the Official Veterinarian shall constitute a veterinary-client-patient relationship within the meaning of the CCR, Title 16, section 2032.1. In addition, the proposed amendment to Rule 1845 modifies the CHRB form 194 (New 08/04)

Authorized Bleeder Medication Request by changing the title of the form to: “Authorized Bleeder Medication and Medical History Request.” A new section has been added to the Form 194 to allow the veterinarian designated by the horse owner(s) or trainer to provide the medical history relevant to the administration of authorized bleeder medication for the horse listed on the form.

These measures are necessary to ensure the integrity of horseracing and the protection of the public. The proposed amendment to Rule 1845 will have the benefit of assuring competitors and horseracing fans alike that the only medication horses will receive on race day is furosemide, and the only veterinarian treating the horse in the hours prior to a race is the veterinarian designated by the Official Veterinarian or the California registered veterinary technician under the direction of the veterinarian designated by the Official Veterinarian. The proposed amendment will have the benefit of promoting fairness and helping to protect the health and safety of horse and rider. The proposed amendment will not have an impact with regards to protecting the environment, the promotion of social equity, or transparency in business and government.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: none.

Other non-discretionary costs or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1845 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: none.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

RESULT OF ECONOMIC IMPACT ANALYSIS

The adoption of the proposed amendment to Rule 1845 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California. The

amendment to Rule 1845 promotes the integrity of horseracing and the protection of the public. The proposed amendment to Rule 1845 will have the benefit of assuring competitors and horseracing fans alike that the only medication horses will receive on race day is furosemide, and the only veterinarian treating the horse in the hours prior to a race is the veterinarian designated by the Official Veterinarian or the California registered veterinary technician under the direction of the veterinarian designated by the Official Veterinarian. The proposed amendment will have the benefit of helping to protect the health and safety of horse and rider.

Effect on small businesses: none. The proposal to amend Rule 1845 does not affect small businesses because horse racing is not a small business under Government Code section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any and other information upon which the rulemaking is based should be addressed to:

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E-Mail: haroldc@chr.ca.gov

If the person named above is not available, interested parties may contact:

Andrea Ogden,
Policy, Regulations and Legislation
Telephone: (916) 263-6033

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

RULE 1845. AUTHORIZED BLEEDER MEDICATION

SPECIFIC PURPOSE OF THE REGULATION

The Board proposes to amend Board Rule 1845, Authorized Bleeder Medication, to enact the Racing Medication and Testing Consortium (RMTC) recommendations for third party administration of furosemide. In 2011 the RMTC formed a race-day medication task force, which concluded that to preserve race-day furosemide and eliminate concerns regarding the efficacy of furosemide to control exercise-induced pulmonary hemorrhage (EIPH), a national uniform medication policy must provide that furosemide shall be the only authorized race day medication, and that it shall be administered only by third-party veterinarians or veterinary technicians. In 2013 the Racing Commissioners International (RCI) incorporated the RMTC recommendations in a Model Rule. The RCI Model Rule requires that furosemide be the only medication authorized for administration on race day, and limits furosemide administration to no less than four hours prior to post time for the race in which the horse is entered. Furosemide may only be administered by third-party veterinarians or veterinary technicians who are prohibited from working as private veterinarians or technicians on the racetrack or with participating licensees. The proposed amendment to Rule 1845 will bring the Board's rules in line with the national movement to address the issue of race day medication. The Board proposes to modify the text of Rule 1845 to provide that the only authorized medication for the control of EIPH shall be furosemide. The proposed amendment provides the steps required to register a horse on the authorized bleeder medication list. Once registered, the proposed amendment states when, how and in what dosage furosemide shall be administered to the horse. The amendment to Rule 1845 requires that furosemide may only be administered by a veterinarian designated by the Official Veterinarian, or a California registered veterinary technician under the direct supervision of the veterinarian designated by the Official Veterinarian. In an emergency, the Official Veterinarian may designate himself or herself to administer furosemide. The details of the emergency shall immediately be reported to the stewards. Prior to the administration of furosemide, either the veterinarian designated by the Official Veterinarian, or the Official Veterinarian or Racing Veterinarian, must consult with the trainer, owner or the veterinarian designated by the owner or trainer, regarding the condition of the horse, and the veterinarian designated by the Official Veterinarian, or the Official Veterinarian or the Racing Veterinarian, must examine the horse sufficient to establish a veterinary-client-patient-relationship within the meaning of California Code of Regulations (CCR), Title 16, section 2032.1. The proposed amendment to Rule 1845 provides that the owner, trainer, or a designated licensed employee of the trainer, shall be present to observe the furosemide administration; what actions to take in the event of an adverse reaction or other emergency related to the administration of furosemide; and that the syringe used to administer furosemide shall be retained by the Board until all testing of the horse is completed. The amendment to Rule 1845 sets the specific gravity of the post-race urine sample, and states

that quantitation of furosemide in serum or plasma shall be performed if the urine sample is not available, or the specific gravity of the urine sample is below a specified level. The proposed amendment to Rule 1845 requires that the owner(s) of a registered horse shall pay all costs associated with the administration of furosemide; consent to the procedures in the regulation; and agree that the pre-race examination conducted under the direction of the Official Veterinarian shall constitute a veterinary-client-patient relationship within the meaning of the CCR, Title 16, section 2032.1. In addition, the proposed amendment to Rule 1845 modifies the CHRB form 194 (New 08/04) Authorized Bleeder Medication Request by changing the title of the form to: "Authorized Bleeder Medication and Medical History Request." A new section has been added to the Form 194 to allow the veterinarian designated by the horse owner(s) or trainer to provide the medical history relevant to the administration of authorized bleeder medication for the horse listed on the form.

PROBLEM

Furosemide is a diuretic administered to horses to treat EIPH, which is a condition wherein pulmonary bleeding occurs when capillaries in horses' lungs burst due to the exertion of severe exercise, or from racing. EIPH and the associated side effects cause poor racing performance. EIPH cumulatively damages lungs, and as damage accumulates the incidence and severity of bleeding increases. Untreated EIPH places both horse and rider at risk of injury. In 2011 a committee of the RMTC studying the administration of furosemide and adjunct bleeder medications presented its recommendations to the RMTC board, which resulted in the development of a Model Rule for RCI consideration. In 2013 the RCI incorporated the RMTC recommendations in a Model Rule, which requires that furosemide be the only medication authorized for administration on race day, and limits furosemide administration to no less than four hours prior to post time for the race in which the horse is entered. The RCI Model Rule also requires that furosemide administration be performed only by third-party veterinarians or veterinary technicians who are prohibited from working as private veterinarians or technicians at the racetrack or with participating licensees. As of January 2014, thirteen states had adopted regulations requiring third-party administration of furosemide: Colorado, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, North Dakota, Virginia and West Virginia. The proposed amendments to Rule 1845, Authorized Bleeder Medication, will bring the Board's regulations in line with the RMTC/RCI recommendations regarding the third-party administration of furosemide.

NECESSITY

The proposed amendment to Rule 1845 will modify the opening paragraph of the regulation to state that furosemide shall be the only authorized bleeder medication for the control of EIPH. EIPH occurs in horses, and is characterized by bleeding into the lungs or out the nose during exercise. It is believed horses experience EIPH because during exercise they have unusually high blood pressure in the vessels that lead from the heart to the lungs and this high pressure causes the walls of the vessels to break and release blood into the airways. The blood can impair breathing and lead to exercise intolerance. Some bleeding occurs in most horses that engage in strenuous exercise, but it becomes a problem when there is enough blood to prevent the horse from performing. Furosemide is a diuretic that has been shown to be effective in reducing EIPH.

Theoretically, if horses are given furosemide, the drug draws water away from the lungs and keeps the blood pressure from getting too high, preventing the lesions in the vessels and the blood from getting into the lungs. In 2011, the RMTC, the National Thoroughbred Racing Association, and the American Association of Equine Practitioners formed industry working groups to develop model rule recommendations, including recommendations governing the regulatory administration of furosemide. The consensus reached by the RMTC committee became the basis for an RCI Model Rule which allows only furosemide for the control of EIPH on race day. Under the RMTC recommendations, and the RCI Model Rule, adjunct bleeder medications are eliminated. The proposed amendment to Rule 1845 will bring California in line with the RCI Model Rule by designating furosemide as the only authorized bleeder medication for the control of EIPH. The opening paragraph of Rule 1845 has also been modified to state that furosemide shall only be administered by a single intravenous injection, in a dosage of not less than 150 milligrams and not more than 500 milligrams, on the grounds of the racetrack where the horse will race, and no later than four hours prior to race time. These provisions are not new to the regulation, but were moved to the opening paragraph from the previous subsection 1845(e); they are also consistent with the RCI Model Rule.

The amended subsections 1845(a) through (a)(2) state how a horse is registered on the authorized bleeder medication list. Subsection (a)(1) provides that the trainer and a veterinarian designated by the owner must determine furosemide is medically necessary to control EIPH and is not otherwise contraindicated for the horse. Subsection 1845(a) currently provides that either the trainer or a veterinarian may determine if it is in the horse's "best interest" to run on bleeder medication. The proposed amendment provides a higher standard by requiring that the trainer and a veterinarian designated by the owner must determine furosemide is medically necessary to control EIPH and is not otherwise contraindicated for the horse. This is necessary, because in addition to the control of EIPH, furosemide is also associated with improved performance. Under the current rule, a trainer's determination that running on furosemide is in the best interest of a horse may not be based on medical necessity. The proposed amendment requires that the trainer and the veterinarian designated by the owner must be in agreement that furosemide is a medical necessity to control EIPH, and is not otherwise contraindicated for the horse. This will mean that the horse has actually been observed bleeding, and/or that an endoscopic examination has been performed. It will further require that the trainer and the veterinarian designated by the owner determine furosemide will not be harmful to the horse, and its benefits outweigh any risk. These provisions are necessary to prevent a horse from being placed on the bleeder medication list without a medical determination that it is actually exhibiting EIPH.

Currently, under Rule 1845, the CHRB form 194, Authorized Bleeder Medication Request (New 08/04) (CHRB 194), which is incorporated by reference in Rule 1845, is used to notify the Official Veterinarian of the trainer's or veterinarian's decision to place the horse on the bleeder medication list. Subsection (a)(2) has been amended to provide that prior to entry for race, the Official Veterinarian must approve the CHRB form 194. The requirement for the Official Veterinarian's approval will mean that he or she must agree with the medical determination made by the trainer of the horse and the veterinarian designated by the owner before the horse may be placed on the bleeder list. The title of the CHRB form 194 has been changed to read "Authorized Bleeder Medication and Medical History Request." This has been done to reflect the requirement that the horse's medical history, relevant to the administration of authorized

bleeder medication, must be provided. This is in accordance section 2032.1 of Title 16, of the CCR dealing with Veterinarian-Client-Patient Relationships. The regulation requires veterinarians who perform any act requiring a license upon any animal to prepare a legible, written record concerning the animal which shall contain a history or pertinent information as it pertains to each animal.

The existing subsections 1845(b) and 1845(c) have been renumbered as 1845(g)(1) and (g)(2). This was necessary for purposes of consistency and clarity.

The existing subsection 1845(d) has been renumbered as subsections 1845(b) through (b)(2). Subsections 1845(b) and (b)(1) state that once registered, any horse that shall be administered furosemide shall arrive on the grounds of the racetrack where it shall race no later than five hours prior to post time. A horse registered on the authorized bleeder medication list must arrive on the grounds of the racetrack five hours prior to post time, as Rule 1845 requires that furosemide be administered no later than four hours prior to the race in which the horse is entered. Subsection 1845(b)(2) states the horse shall be assigned to a pre-race security stall. The horse shall remain in the security stall until it is taken to the receiving barn or the paddock to be saddled or harnessed for the race. While in the security stall, the horse shall be under the constant care, custody and view of the trainer or a licensed person assigned by the trainer. The trainer shall be responsible for the condition of the horse while it remains in the security stall. The Official Veterinarian may allow the horse to leave the stall to engage in track warm-up heats prior to a race. These provisions are not new, as they exist in the current Rule 1845(d). Pre-race security stalls are a component of the pre-race security measures that help to minimize or eliminate the administration of illegal drugs to racehorses. In practice, one or more of a trainer's assigned stalls are designated with "In-Today" stall signs. The signs identify a horse entered on the day's race card. Board Rule 1887, Trainer to Insure condition of Horse, provides that the trainer is the absolute insurer of and responsible for the condition of the horses entered in a race. Subsection 1845(b)(2) reiterates this concept by requiring that the horse in the pre-race security stall must be under the care, custody and constant view of the trainer, or of a licensed person assigned by the trainer. These measures are necessary to ensure the integrity of horseracing and the protection of the public. Racehorses are athletes, and must consistently train to be at their competitive peak. Trainers formulate specific training schedules that ensure each horse will perform at its best on race day. Under-training may lead to cramps, strains and injuries during the race. Subsection 1845(b)(2) provides the trainer with the ability to engage his or her horse in on-track warm-ups prior to a race with the permission of the Official Veterinarian.

Before the veterinarian designated by the Official Veterinarian may administer furosemide to the horse, a veterinary-client-patient relationship must be established within the meaning of CCR, Title 16, section 2032.1. A new subsection 1845(c)(1) provides that such a relationship may be established if the owner, trainer or the veterinarian designated by the owner or trainer has consulted with the veterinarian designated by the Official Veterinarian regarding the condition of the horse. The veterinarian designated by the Official Veterinarian must also examine the horse. Alternately, under a new subsection 1845(c)(2), the trainer, owner or veterinarian designated by the owner or trainer may consult with the Official Veterinarian or Racing Veterinarian, and the veterinarian designated by the Official Veterinarian examines the horse. Under subsection 1845(c)(2) the consulting Official Veterinarian or Racing Veterinarian must also directly

supervise the veterinarian designated by the Official Veterinarian or registered veterinary technician who administers the furosemide. The direct supervision is necessary because the veterinarian designated by the Official Veterinarian would not have consulted with the owner, the trainer or the veterinarian designated by the owner or trainer. The provisions of subsections 1845(c)(1) through (c)(2), which are meant to establish a veterinary-client-patient relationship, were developed in conjunction with the California Veterinary Medical Board (CVMB) in response to the CVMB's concerns that third party administration of furosemide would violate the veterinary-client-patient relationship.

New subsections 1845(d) through (d)(3) describe how the administration of furosemide shall occur. Subsection (d)(1) states that only a veterinarian designated by the Official Veterinarian, or a California registered veterinary technician under the direct supervision of the veterinarian designated by the Official Veterinarian may administer furosemide. The Official Veterinarian may designate himself or herself in an emergency, the details of which shall be immediately reported to the stewards. Subsection (d)(1)(A) provides that the veterinarian designated by the Official Veterinarian or California registered veterinary technician who administers furosemide shall not have a current business relationship with participating licensees within 30 days of the date he or she is designated to administer furosemide, or have had a veterinarian-client-patient relationship within 30 days of the date he or she is designated to administer furosemide. These provisions are necessary to meet the goals of "third-party" administration of furosemide, which are to get private veterinarians out of the stall on race day, and to ensure that only veterinarians (or California registered veterinary technicians) under the control of the Board administer furosemide. To make certain the veterinarians designated by the Official Veterinarian and/or the California registered veterinary technicians do not have an interest in the business of licensees, they are prohibited from having worked as private veterinarians or technicians on the racetrack, or with participating licensees, within 30 days of the date they are designated to administer furosemide. Some necessary flexibility is provided in that the Official Veterinarian may administer furosemide in an emergency. The Official Veterinarian is a licensee of the Board and is employed by the racing association. This means he or she does not have a business relationship with participating licensees. In addition, Board Rule 1560, Duties of the Official Veterinarian, currently allows the Official Veterinarian – in an emergency - to directly treat or prescribe for any horse registered to race at any recognized meeting. Rule 1560 also requires that the stewards be immediately informed if the Official Veterinarian directly treats or prescribes for any horse. Limiting the administration of furosemide to the veterinarian designated by the Official Veterinarian, the California registered veterinary technician, or in an emergency the Official Veterinarian, is necessary to assure competitors and the wagering public alike that the only drug or medication horses will receive on race day is furosemide, and the only veterinarian/technician treating the horse is a third party veterinarian/technician. Subsection 1845(d)(1)(B) provides that the person who administers furosemide shall, not later than two hours prior to post time of the race for which the horse is entered, notify the Official Veterinarian of the treatment of the horse by using CHRB Form-36 (New 08/04) Bleeder Treatment Report, which is incorporated by reference. These provisions have been moved from the current subsection 1845(e) to the new 1845(d)(1)(B). A new subsection (d)(2) requires that the owner, trainer or a designated licensed employee of the trainer shall be present and observe the furosemide administration. This provision is necessary so that there will be no question that the furosemide was properly administered by the veterinarian designated by the Official Veterinarian

or the California registered veterinary technician. This is also in keeping with subsection 1845(b)(2) which states that the horse shall be under the constant care, custody and view of the trainer or a licensed person assigned by the trainer. The trainer shall be responsible for the condition of the horse while it remains in the security stall. Subsection 1845(d)(3) provides that the horse authorized to be administered furosemide shall receive 250 mg of furosemide intravenously unless an alternative dose between 150 mg and 500 mg has been determined after consultation between the trainer, owner, or veterinarian designated by the owner or trainer and the veterinarian designated by the Official Veterinarian. The current Rule 1845 allows for furosemide administration between 150 mg and 500 mg. The proposed amendment to Rule 1845 sets a standard furosemide dose of 250 mg. This is a nationally recognized default dose. However, not every horse will require a standard dose of furosemide. Therefore, to provide the parties with the flexibility to act in the best interest of the horse, subsection 1845(d)(3) also allows for the administration of between 150 mg and 500 mg. The range of 150 mg to 500 mg is consistent with the RCI Model Rule recommendations for administration of furosemide.

A new subsection 1845(e) requires that in the event of an adverse reaction or other emergency related to the administration of furosemide, the veterinarian or California registered veterinary technician who administered the furosemide shall attend the horse until the arrival of the veterinarian designated by the trainer or owner. This provision is necessary to ensure the horse is in the care of a veterinarian or medical technician at all times, and it will allow the veterinarian designated by the owner or trainer to confer with the party who administered furosemide regarding the horse's reaction to the furosemide administration.

The current subsection 1845(e) provides that a representative of the Board may request that the veterinarian administering the bleeder medication surrender the syringe used in the administration of furosemide for possible testing. A new subsection 1845(f) requires that the syringe used to administer furosemide shall be provided to, and retained by the Board until all testing of the horse is completed. This is necessary to ensure that each syringe used to administer furosemide is in the custody of the Board and available for testing, as needed. If there is a positive test finding, the Board may order, or the owner or trainer may request that the syringe be analyzed for prohibited substances. This is in keeping with Board Rule 1859.25, Split Sample Testing, which provides the owner or trainer the opportunity to request, and pay a fee to have the split sample of the Board's official test sample tested by an independent Board-approved laboratory if the Board's official test sample is found to contain a prohibited drug substance.

The current subsections 1845(b) and (c) have been renumbered for purposes of clarity and consistency and appear in the amended text as subsections 1845(g) through (g)(2). These subsections give the required specific gravity of post-race urine samples, which shall not be below 1.010. (Specific gravity is a measurement of how concentrated the urine is; the density of the fluid.) They also provide that if the urine sample is not available, or if it is determined to be below 1.010, quantitation of furosemide in serum or plasma shall be performed. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma. These levels are the same as those in the current 1845 text. The levels are also consistent with the requirements of the RCI Model Rule recommendations.

Subsection 1845(f) of the current Rule 1845 has been renumbered as subsection 1845(h) of the amended text. The subsection remains essentially unchanged from the current version of Rule 1845. Any changes that have been made to subsection 1845(h) are for the purposes of clarity and consistency. Subsection 1845(h) states how a horse may be removed from the official authorized bleeder medication list, and the periods of time the horse must remain off the list before it can be re-registered on the list.

Subsection 1845(g) of the current Rule 1845 has been renumbered for purposes of clarity and consistency as subsection 1845(i) of the revised text. The subsection provides the period of time a horse will be ineligible to race if the official veterinarian observes it bleeding externally from one or both nostrils during or after a race or workout, and determines such bleeding is a direct result of EIPH. These periods of time remain unchanged; however, an exemption to these periods of ineligibility for horses voluntarily administered authorized bleeder medication without an external bleeding incident has been stricken. Under the proposed amendment it must be determined that furosemide is medically necessary for the horse; this would preclude the “voluntary” administration of the medication without a bleeding incident.

A new subsection 1845(j)(1) provides that the owner of the horse shall pay all costs associated with the administration of furosemide. This is consistent with current practice. Owners currently pay all veterinary medical costs associated with the care and upkeep of their horses.

A new subsection 1845(j)(2) provides that the owner shall consent to the procedures in Rule 1845, and shall agree that the pre-race examination conducted by the Official Veterinarian constitutes a veterinary-client-patient relationship within the meaning of Title 16, section 2032.1, of the CCR. Although Rule 1846, Racing Soundness Examination, provides that the horse may be examined as late as two hours before post time, most racing soundness examinations occur in early morning, well before the first post time. (The first post time in a thoroughbred race meeting is typically between 12:30 p.m. and 1:30 p.m.) The examinations are conducted by the Official Veterinarian or the Racing Veterinarian. This provision will ensure a veterinary-client-patient relationship has been established should an emergency require that the Official Veterinarian designate himself or herself to administer furosemide.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The proposed amendment to Board Rule 1845 will enact the RMT/RCI recommendations for third party administration of furosemide. The Board proposes to modify the text of Rule 1845 to provide that the only authorized medication for the control of EIPH shall be furosemide. The proposed amendment provides the steps required to register a horse on the authorized bleeder medication list. Once registered, the proposed amendment states when, how and in what dosage furosemide shall be administered to the horse. The amendment to Rule 1845 requires that furosemide may only be administered by a veterinarian designated by the Official Veterinarian, or a California registered veterinary technician under the direct supervision of the veterinarian designated by the Official Veterinarian. In an emergency, the Official Veterinarian may designate himself or herself to administer furosemide. The details of the emergency shall immediately be reported to the stewards. Prior to the administration of furosemide, either the veterinarian designated by the Official Veterinarian, or the Official Veterinarian or Racing

Veterinarian, must consult with the trainer, owner or the veterinarian designated by the owner or trainer, regarding the condition of the horse, and the veterinarian designated by the Official Veterinarian, or the Official Veterinarian or the Racing Veterinarian, must examine the horse sufficient to establish a veterinary-client-patient-relationship within the meaning of CCR, Title 16, section 2032.1. The proposed amendment to Rule 1845 provides that the owner, trainer, or a designated licensed employee of the trainer, shall be present to observe the furosemide administration; what actions to take in the event of an adverse reaction or other emergency related to the administration of furosemide; and that the syringe used to administer furosemide shall be retained by the Board until all testing of the horse is completed. The amendment to Rule 1845 sets the specific gravity of the post-race urine sample, and states that quantitation of furosemide in serum or plasma shall be performed if the urine sample is not available, or the specific gravity of the urine sample is below a specified level. The proposed amendment to Rule 1845 requires that the owner(s) of a registered horse shall pay all costs associated with the administration of furosemide; consent to the procedures in the regulation; and agree that the pre-race examination conducted under the direction of the Official Veterinarian shall constitute a veterinary-client-patient relationship within the meaning of the CCR, Title 16, section 2032.1. In addition, the proposed amendment to Rule 1845 modifies the CHRB form 194 (New 08/04) Authorized Bleeder Medication Request by changing the title of the form to: "Authorized Bleeder Medication and Medical History Request." A new section has been added to the Form 194 to allow the veterinarian designated by the horse owner(s) or trainer to provide the medical history relevant to the administration of authorized bleeder medication for the horse listed on the form.

These measures are necessary to ensure the integrity of horseracing and the protection of the public. The proposed amendment to Rule 1845 will have the benefit of assuring competitors and horseracing fans alike that the only medication horses will receive on race day is furosemide, and the only veterinarian treating the horse in the hours prior to a race is the veterinarian designated by the Official Veterinarian or the California registered veterinary technician under the direction of the veterinarian designated by the Official Veterinarian. The proposed amendment will have the benefit of promoting fairness, and helping to protect the health and safety of horse and rider. The proposed amendment will not have an impact with regards to protecting the environment, the promotion of social equity, or transparency in business and government.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS

The Board did not rely on any technical, theoretical, and/or empirical study, reports or documents in proposing the addition of Rule 1845.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The results of the Board's Economic Impact Assessment as required by Government Code Section 11346.3(b) are as follows:

- The proposed regulation will not impact the creation or eliminate jobs within the State of California, or the creation of new businesses or the elimination of existing business or the expansion of businesses in California.
- The proposed addition of Rule 1845 will not impact the creation of new businesses or eliminate existing businesses in California.
- Rule 1845 will not impact the expansion of businesses currently doing business in California.
- The proposed regulation will not benefit the health and welfare of California residents or benefit the State's environment.

PURPOSE

The proposed amendment to Rule 1845 will bring the Board's rules in line with the national movement to address the issue of race day medication. The Board proposes to modify the text of Rule 1845 to provide that the only authorized medication for the control of EIPH shall be furosemide. The proposed amendment provides the steps required to register a horse on the authorized bleeder medication list. Once registered, the proposed amendment states when, how and in what dosage furosemide shall be administered to the horse. The amendment to Rule 1845 requires that furosemide may only be administered by a veterinarian designated by the Official Veterinarian, or a California registered veterinary technician under the direct supervision of the veterinarian designated by the Official Veterinarian. In an emergency, the Official Veterinarian may designate himself or herself to administer furosemide. The details of the emergency shall immediately be reported to the stewards. Prior to the administration of furosemide, either the veterinarian designated by the Official Veterinarian, or the Official Veterinarian or Racing Veterinarian, must consult with the trainer, owner or the veterinarian designated by the owner or trainer, regarding the condition of the horse, and the veterinarian designated by the Official Veterinarian, or the Official Veterinarian or the Racing Veterinarian, must examine the horse sufficient to establish a veterinary-client-patient-relationship within the meaning of CCR, Title 16, section 2032.1. The proposed amendment to Rule 1845 provides that the owner, trainer, or a designated licensed employee of the trainer, shall be present to observe the furosemide administration; what actions to take in the event of an adverse reaction or other emergency related to the administration of furosemide; and that the syringe used to administer furosemide shall be retained by the Board until all testing of the horse is completed. The amendment to Rule 1845 sets the specific gravity of the post-race urine sample, and states that quantitation of furosemide in serum or plasma shall be performed if the urine sample is not available, or the specific gravity of the urine sample is below a specified level. The proposed amendment to Rule 1845 requires that the owner(s) of a registered horse shall pay all costs associated with the administration of furosemide; consent to the procedures in the regulation; and agree that the pre-race examination conducted under the direction of the Official Veterinarian shall constitute a veterinary-client-patient relationship within the meaning of the California Code of Regulations, Title 16, section 2032.1. In addition, the proposed amendment to Rule 1845 modifies the CHRB form 194 (New 08/04) Authorized Bleeder Medication Request by changing the title of the form to: "Authorized Bleeder Medication and Medical History Request." A new section has been added to the Form 194 to allow the veterinarian designated by the horse owner(s) or trainer to provide the medical history relevant to the administration of authorized bleeder medication for the horse listed on the form.

CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The proposed amendment to Rule 1845 provides for the third party administration of furosemide. The medication is currently administered by private, Board licensed veterinarians. However, the proposed amendment will not eliminate the livelihood of private veterinarians, as the administration of furosemide is only one component in ensuring the overall health and well-being of the horse. Private veterinary services will still be required by owners and trainers. The proposed amendment to Rule 1845 will create a limited number of new veterinarian and California registered veterinary technician openings at California racetracks, as the proposed amendment requires that the veterinarians designated by the Official Veterinarian and California registered veterinary technicians not have a business relationship with participating licensees within 30-days of the date they are designated to administer furosemide.

CREATION OF NEW OR ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA

The proposed amendment to Rule 1845 provides for the third party administration of furosemide. The program will be supervised by Board licensed Official Veterinarians and Board licensed Racing Veterinarians. Individual Board licensed veterinarians designated by the Official Veterinarian and Board licensed California registered veterinary technicians will administer furosemide, as directed. Therefore no new businesses in California will be created, nor will existing businesses in California will be eliminated.

EXPANSION OF BUSINESSES OR ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA

The proposed amendment to Rule 1845 provides for the third party administration of furosemide. The program will be supervised by Board licensed Official Veterinarians and Board licensed Racing Veterinarians. Individual Board licensed veterinarians designated by the Official Veterinarian and Board licensed California registered veterinary technicians will administer furosemide, as directed. Therefore no existing businesses in California will be expanded or eliminated.

BENEFITS OF THE REGULATION

The proposed amendment to Board Rule 1845 will enact the RMTC/RCI recommendations for third party administration of furosemide. The program will be supervised by Board licensed Official Veterinarians and Board licensed Racing Veterinarians. Individual Board licensed veterinarians designated by the Official Veterinarian and Board licensed California registered veterinary technicians will administer furosemide, as directed. These measures are necessary to ensure the integrity of horseracing and the protection of the public. The proposed amendment to Rule 1845 will have the benefit of assuring competitors and horseracing fans alike that the only medication horses will receive on race day is furosemide, and the only veterinarian treating the horse in the hours prior to a race is the veterinarian designated by the Official Veterinarian or the California registered veterinary technician under the direction of the veterinarian designated by

the Official Veterinarian. The proposed amendment will have the benefit of promoting fairness and helping to protect the health and safety of horse and rider. The proposed amendment will not have an impact with regards to protecting the environment, the promotion of social equity, or transparency in business and government.

The Board has made an initial determination that the proposed amendment to Rule 1845 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

The proposed amendment to Rule 1845 was discussed at the March 2014 Regular Board Meeting, and the February 2015 Regular Board Meeting. No alternatives to the recommendation were proposed by the Board or by any other individual or entity at either meeting. No subsequent alternative recommendations were made prior to the notice. The Board invites any interested party to submit comments which offer any alternative proposal.

California Horse Racing Board
June 26, 2015